

§ 9901.356

5 CFR Ch. XCIX (1–1–07 Edition)

implementing issuances regarding pay retention. Pay retention prevents a reduction in basic pay that would otherwise occur by preserving the former rate of basic pay within the employee's new pay band or by establishing a retained rate that exceeds the maximum rate of the new pay band. Local market supplements are not considered part of basic pay in applying pay retention.

(b) Pay retention will be based on the employee's rate of basic pay in effect immediately before the action that would otherwise reduce the employee's rate. A retained rate will be compared to the range of rates of basic pay applicable to the employee's position.

(c) Subject to any employee eligibility requirements the Secretary may prescribe, pay retention will apply when an employee is reduced in band through reduction in force (RIF), reclassification, or other appropriate circumstances, as specified in implementing issuances. Pay retention will be granted for a period of 2 years (that is, 104 weeks).

(d) Employees entitled to a retained rate will receive any performance payouts in the form of bonuses, rather than salary adjustments, as provided in § 9901.342(d)(6).

(e) Employees entitled to a retained rate will not receive minimum rate range adjustments under § 9901.323(a), but are entitled to receive any applicable local market supplement adjustments under § 9901.334(a).

§ 9901.356 Miscellaneous.

(a) Except in the case of an employee who does not receive a pay increase under § 9901.323 because of an unacceptable rating of record, an employee's rate of basic pay may not be less than the minimum rate of the employee's pay band.

(b) Except as provided in § 9901.355, an employee's rate of basic pay may not exceed the maximum rate of the employee's band rate range.

(c) The Secretary will follow the rules for establishing pay periods and computing rates of pay in 5 U.S.C. 5504 and 5505, as applicable. For employees covered by 5 U.S.C. 5504, annual rates of pay will be converted to hourly rates of pay in computing payments received by covered employees.

(d) The Secretary may promulgate implementing issuances that provide for a special increase prior to an employee's movement in recognition of the fact that the employee will not be eligible for a promotion increase under the GS system, if a DoD employee moves from the pay system established under this subpart to a GS position having a higher level of duties and responsibilities.

PREMIUM PAY

§ 9901.361 General.

(a) This section applies to eligible DoD employees and positions which would otherwise be covered by 5 U.S.C. chapter 55, subchapter V, subject to a determination by the Secretary under § 9901.102(b)(2). As provided in § 9901.303(a)(2), for employees covered by such a determination, the provisions of 5 U.S.C. chapter 55, subchapter V (except section 5545b), are waived or modified to the extent that the Secretary establishes alternative premium pay provisions for such employees in lieu of the provisions in 5 U.S.C. chapter 55, subchapter V.

(b) The Secretary may establish alternative or additional forms of premium pay, or make modifications in premium payments under 5 U.S.C. chapter 55, subchapter V (except section 5545b), for specified categories of employees through implementing issuances. The types of premium payments the Secretary may establish or modify include, but are not limited to—

(1) Overtime pay (excluding overtime pay under the Fair Labor Standards Act);

(2) Compensatory time off;

(3) Sunday, holiday, and night pay;

(4) Annual premium pay for standby duty and administratively uncontrollable overtime work;

(5) Availability pay for criminal investigators; and

(6) Hazardous duty differentials.

(c) The Secretary will determine the conditions of eligibility for the amounts of and the limitations on payments made under the authority of this section.

Department of Defense

§ 9901.401

CONVERSION PROVISIONS

§ 9901.371 General.

(a) This section and §§ 9901.372 and 9901.373 describe the provisions that apply when DoD employees are converted to the NSPS pay system established under this subpart. An affected employee may convert from the GS system, a prevailing rate system, the SL/ST system, or the SES system (or such other systems designated by the Secretary as DoD may be authorized to include under 5 U.S.C. 9902), as provided in § 9901.302. For the purpose of this section and §§ 9901.372 and 9901.373, the terms “convert,” “converted,” “converting,” and “conversion” refer to employees who become covered by the pay system without a change in position (as a result of a coverage determination made under § 9901.102(b)(2)) and exclude employees who move from a noncovered position to a position already covered by the NSPS pay system.

(b) The Secretary will issue implementing issuances prescribing the policies and procedures necessary to implement these transitional provisions.

§ 9901.372 Creating initial pay ranges.

DoD will set the initial band rate ranges for the NSPS pay system established under this subpart. The initial ranges may link to the ranges that apply to converted employees in their previously applicable pay system (taking into account any applicable locality payment under 5 U.S.C. 5304, special rate supplement under 5 U.S.C. 5305, local market supplement under § 9901.332, or similar payment under other legal authority).

§ 9901.373 Conversion of employees to the NSPS pay system.

(a) When the NSPS pay system is established under this subpart and applied to a category of employees, employees will be converted to the system without a reduction in their rate of pay (including basic pay and any applicable locality payment under 5 U.S.C. 5304, special rate supplement under 5 U.S.C. 5305, local market supplement under § 9901.332, or similar payment under other legal authority).

(b) When an employee receiving a special rate under 5 U.S.C. 5305 before conversion is converted to an equal rate of pay under the NSPS pay system that consists of a basic rate and a local market supplement, the conversion is not a reduction in pay for the purpose of applying subpart G of this part (or similar authority).

(c) If another personnel action (e.g., promotion, geographic movement) takes effect on the same day as the effective date of an employee's conversion to the new pay system, the other action will be processed under the rules pertaining to the employee's former system before processing the conversion action.

(d) An employee on a temporary promotion at the time of conversion will be returned to his or her official position of record prior to processing the conversion. If the employee is temporarily promoted immediately after the conversion, pay will be set under the rules for promotion increases under the NSPS pay system.

(e) The Secretary has discretion to make one-time pay adjustments for employees when they are converted to the NSPS pay system. The Secretary will issue implementing issuances governing any such pay adjustment, including rules governing employee eligibility, pay computations, and the timing of any such pay adjustment.

Subpart D—Performance Management

§ 9901.401 Purpose.

(a) This subpart provides for the establishment in DoD of a performance management system as authorized by 5 U.S.C. 9902.

(b) The performance management system established under this subpart is designed to promote and sustain a high-performance culture by incorporating the following elements:

(1) Adherence to merit principles set forth in 5 U.S.C. 2301;

(2) A fair, credible, and transparent employee performance appraisal system;

(3) A link between the performance management system and DoD's strategic plan;